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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

**MARK HERER, PERSONAL
REPRESENTATIVE OF THE ESTATE
OF JACK HERER,**

Civil Action No. _____

Plaintiff,

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

v.

JURY TRIAL REQUESTED

**AH HA PUBLISHING, LLC, a Texas
limited liability company, and
MICHAEL KLEINMAN, an individual,**

Defendants.

Plaintiff Mark Herer, as personal representative of the Estate of Jack Herer, alleges for his Complaint as follows:

Jurisdiction

1. This Court has jurisdiction under 17 U.S.C. §§ 101 et seq. and 28 U.S.C. §§ 1331 and 1338.

Venue

2. Venue is appropriate in this Court pursuant to 28 U.S.C. §§ 1391 and 1400 because the Plaintiff and the Estate of Jack Herer are based in this district, Defendants actively market their products and services to customers within the district, and injury has occurred within the district.

Parties

3. Plaintiff Mark Herer is the Personal Representative of the Estate of Jack Herer.

4. Defendant Ah Ha Publishing, LLC (“Ah Ha Publishing”) is a Texas limited liability Company with its principal place of business at 1201 S Capital of Texas Highway Building, Austin, Texas.

5. Defendant Michael Kleinman (“Kleinman”) is an individual and is also a manager of Ah Ha Publishing. Based on information and belief, he resides in Austin, Texas.

Claim

FIRST CLAIM FOR RELIEF

(Federal Copyright Infringement)

6. Jack Herer, now deceased, wrote a book called *The Emperor Wears No Clothes* (the “Work”) and was the copyright owner of said book at the time of his death. The work was registered with the United States Copyright Office on April 20, 1990, which issued registration certificate no. TX000279563.

7. Ah Ha Publishing is a Texas-based web company that is a publisher of books. It has published and distributed the Work in the past and is currently publishing and distributing the Work.

8. Kleinman, while acting in his capacity as an individual, has published and distributed the Work.

9. Neither Ah Ha Publishing nor Kleinman have been authorized by the copyright owner to publish or distribute the Work, and thus they have committed copyright infringement by publishing and distributing the Work.

10. Based on information and belief, Defendant Kleinman had the right and ability to supervise the infringing conduct by Ah Ha Publishing and stood to benefit financially from the infringing activity.

11. Defendant Kleinman is a member and officer of Ah Ha Publishing and is actively involved in the day-to-day operation of the company and whose direct participation caused or induced Ah Ha Publishing to engage in the infringing conduct.

12. Jack Herer has complied in all respects with 17 U.S.C. §§ 101 et seq., and secured the exclusive rights and privileges in and to the copyrights of the above-referenced works. Plaintiff is the sole proprietor of all rights, title, and interest in and to the copyrights in the Work.

13. Defendants' conduct violated the exclusive rights belonging to Plaintiff including without limitation Plaintiffs' rights under 17 U.S.C. § 106.

14. Based on information and belief, Plaintiff alleges that, as a direct and proximate result of their wrongful conduct, Defendants have realized profits and other benefits rightfully belonging to Plaintiff. Accordingly, Plaintiff seeks an award of damages pursuant to 17 U.S.C. §§ 504 and 505.

15. Defendants' infringing conduct has also caused and is causing substantial and irreparable injury and damage to Plaintiff in an amount not capable of determination, and, unless restrained, will cause further irreparable injury, leaving the Plaintiff with no adequate remedy at law.

16. Based on information and belief, Defendants have willfully engaged in, and are willfully infringing the copyright to the Work in conscious disregard of the rights of Plaintiff. Plaintiff is therefore entitled to the maximum statutory damages allowable.

Relief Requested

THEREFORE, Plaintiff prays for judgment against Defendants as follows:

- A. Declaring that Defendants' unauthorized conduct violates Plaintiff's rights under the Federal Copyright Act;
- B. Immediately and permanently enjoining Defendants, their officers, members, agents, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them from copying and publishing the Work without consent of Plaintiff or otherwise infringing the copyright or other rights in any manner;
- C. Ordering Defendants to account to Plaintiff for all gains, profits, and advantages derived by Defendants by their infringement of Plaintiff's copyrights or such damages as are proper;
- D. Awarding Plaintiff's actual or statutory damages for Defendants' copyright infringement;
- E. Awarding Plaintiff his costs, reasonable attorneys' fees, and disbursements in this action, pursuant to 17 U.S.C. § 505; and
- F. Awarding Plaintiff such other and further relief as is just and proper.

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Demand for Jury Trial

Pursuant to Fed. R. Civ. P. 38, Plaintiff demands a jury trial on all issues raised in this Complaint triable to a jury.

DATED: August ____, 2012.



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